

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

JOHN DOE,)	CASE NO. 1:18-CV-02956
)	
Plaintiff,)	JUDGE
)	
v.)	
)	<u>NOTICE OF REMOVAL</u>
CASE WESTERN RESERVE UNIVERSITY,)	
<i>et al.</i>)	
)	
Defendants.)	

Pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, Defendants Case Western Reserve University¹ (“CWRU” or the “University”) and Darnell Parker (“Parker”) (collectively, “Defendants”) hereby file their Notice of Removal to this Court of an action pending against them in the Cuyahoga County Court of Common Pleas. Removal is based on the following grounds:

1. On or around December 21, 2018, Plaintiff John Doe (“Plaintiff”) filed a lawsuit against Defendants in the Cuyahoga County Court of Common Pleas (the “State Court Action”). The State Court Action bears the same title as the above caption and is docketed in the Cuyahoga County Court of Common Pleas as Case No. CV 18 908696. Plaintiff’s Complaint asserts the following causes of action: (1) Violation of Title IX of the Education Amendments of 1972 – Erroneous Outcome; (2) Violation of Title IX of the Education Amendments of 1972 – Selective Enforcement; (3) 42 U.S.C. § 1983 Fourteenth Amendment Procedural Due Process Property and Liberty Interests; (4) Breach of Contract; (5) Breach of the Covenant of Good Faith and Fair

¹ The Complaint improperly names “Case Western Reserve University Board of Trustees” as a defendant. CWRU’s Board of Trustees is not a separate legal entity. The corporate entity subject to suit is CWRU and, therefore, no action on behalf of “Case Western Reserve University Board of Trustees” is necessary or appropriate.

Dealing; (6) Negligence; and (7) Promissory Estoppel. Defendants have not yet been served. A copy of the Complaint is attached as Exhibit A.

TIMELY REMOVAL

2. Defendants have not yet been served. On or after December 21, 2018, Defendants became aware of the State Court Action.

3. This Notice of Removal is being filed within 30 days of Defendants' receipt of notice of the State Court Action. Thus, it is timely filed pursuant to 28 U.S.C. § 1446(b).

JURISDICTION

4. This Court has jurisdiction under 28 U.S.C. §§ 1331 and 1441, as well as under Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 *et seq.* ("Title IX") and the Fourteenth Amendment.

5. Counts I and II of the Complaint allege that CWRU "failed to conduct an adequate, reliable, and impartial 'initial inquiry' as required by the Policy prior to determining that Jane Roe's complaint fell within the Policy" and thus should be referred to a Sexual Misconduct Investigator and that CWRU selectively enforces its Sexual Misconduct Policy in violation of Title IX. (Comp., ¶ 123. *See also* Compl., ¶¶ 124-140.) Plaintiff contends "male respondents accused of sexual misconduct at CWRU are discriminated against solely on the basis of sex" and that "Plaintiff has been subjected to a biased, prejudiced, and explicitly unfair process in violation of Title IX." (Compl., ¶¶ 141-142.) This Court has original jurisdiction over the Title IX claims (Counts I and II) pursuant to 28 U.S.C. § 1331.

6. Count III of the Complaint alleges that Defendants "failed to provide Plaintiff with the basic due process protections that they are required to provide students accused of sexual misconduct, in violation of the Fourteenth Amendment. This Court has original

jurisdiction over the Fourteenth Amendment due process claim (Count III) pursuant to 28 U.S.C. § 1331.

VENUE

7. Venue is proper in this district and in this division pursuant to 28 U.S.C. § 1391 and Northern District of Ohio Local Rule 3.8.

8. This action is not a non-removable action as described in 28 U.S.C. § 1445.

NOTICE

9. Promptly after the filing of this Notice of Removal, Defendants will serve written notice of this removal on all parties and file a copy of this Notice of Removal with the Clerk of the Court of the Cuyahoga County Court of Common Pleas. A copy of the Notice of Filing Notice of Removal is attached as Exhibit B.

WHEREFORE, Defendants respectfully file this Notice of Removal, removing this case from the Cuyahoga County Court of Common Pleas to the United States District Court for the Northern District of Ohio, Eastern Division.

Respectfully submitted,

/s/ Amanda T. Quan

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CERTIFICATE OF SERVICE

I hereby certify that on December 21, 2018, a copy of the foregoing was electronically filed with the Clerk of Court using the CM/ECF system. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Amanda T. Quan

One of the Attorneys for Defendant

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